SOUTH AUSTRALIAN PROBATION & PAROLE
OFFICERS' ASSOCIATION

PUBLIC SEMINAR ON SENTENCING
ADELAIDE, 16 APRIL 1983

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REFORM OF FEDERAL PUNISHMENT IN THE EIGHTIES

The Hon. Mr. Justice M.D. Kirby, C.M.G.
Chairman of the Australian Law Reform Commission

PUNISHMENT IS ALWAYS NEWS

The release on licence of two Federal prisoners known as the American 'drug grannies' and their deportation to America shows the need for reforms of the law governing punishment of Federal offenders in Australia.

I refer, of course to the deportation on 23 March 1983 of Florice Bessire, 66, and Vera Todd Hays, 65, following their release from the Silverwater Women's Prison in Sydney after serving five years of a 14-year sentence for importing 1.9 tonnes of cannabis into Australia. The two were Federal prisoners convicted of Federal crimes. Of all the defective Australian systems for the early release of prisoners, the Federal system is the 'most defective'. The defects were called to attention in a 1980 report of the Australian Law Reform Commission on 'Sentencing of Federal Offenders'. Some of the proposals in the report were implemented by legislation in 1982. But the great tasks of sentencing reform in Australia still lie ahead. The new Federal Attorney-General, Senator Gareth Evans is well aware of the defects in Federal sentencing law and policy. The published policy of the ALP before the election included commitments to a number of the recommendations made by the Australian Law Reform Commission:

* Establishment of a Federal Sentencing Council to ensure more uniform punishment.
* Implementation of law reform recommendations relating to uniformity of treatment of Federal offenders in State prisons.
* Implementation of recommendations on reform of parole laws and procedures.
* Increasing the resources of the Law Reform Commission to permit it to complete its Sentencing enquiry.

Obviously it will take time and a good deal of effort to secure major reforms in such a controversial and sensitive area.

WORST SYSTEM OF ALL

The Australian Law Reform Commission's inquiry disclosed a number of serious defects in the way in which punishments are imposed on Federal offenders in Australia. Until laws are changed and necessary institutions established, reforms will remain haphazard and highly personalised. Amongst the defects affecting punishment of Federal prisoners set out in the Law Reform Commission's report are:

* The necessity of involving busy political officers such as the Attorney-General in the routine consideration of individual cases of Federal prisoner parole and licence release.
* The absence of any Federal parole board in Australia.
* Uncertainty on the part of Federal prisoners, housed in State gaols, as to who controls their parole or release and to whom they should make submissions.
* Serious differences between State laws and policies on parole and early release and those governing Federal prisoners.
* Different provisions in State laws affecting the early release of Federal prisoners in some States, particularly Tasmania and Queensland where non parole periods are fixed by statute rather than the sentencing judge.
* The persistence of the unsatisfactory features of parole in the case of Federal prisoners.

The administrative procedures associated with the early release of Federal prisoners in Australia, whether on parole or licence, are uncertain and unfair. Federal offenders do not know when they are to be released from prisons. This uncertainty is unsettling to them and unfair to them and to their families. The Federal system of parole and release on licence has inbuilt structural causes of disparity in the treatment of Federal prisoners in different parts of Australia. In most States, Federal prisoners are released early on parole. In Tasmania and Queensland, where the State legislation is different and State judges have different practices, Federal prisoners are released, if at all, on licence rather than parole. Figures secured by the Australian Law Reform Commission tend to suggest that release on licence depends significantly on the attitude of the Attorney-General of the day. Whilst some reflection of community attitudes through political officers is appropriate, it would be better for prisoners, politicians and the criminal justice system if improved institutions and procedures could be substituted for the present inequality and uncertainty.

All systems of early release in Australia, whether by parole, remission or release on licence, are unsatisfactory in numerous ways. However, the Federal system was the worst of all.

COMPARISON WITH STATE PRISONERS

Fortunately, Senator Evans knows that this is the case. His published electoral program indicates an intention to tackle the institutional problem. That problem arises inevitably out of a Federal system in which Federal prisoners are tried in State courts, sent to State prisons and where released, supervised by State probation and parole officers. Yet they are not dealt with in the same way as State prisoners. If they had a superior nationwide system, which was more efficient and humane, they would not complain. Instead, they have an inefficient system which is unclear to them, gives them lesser benefits than State prisoners and which they must know depends very much on the personality and attitudes of the person who happens to be Federal Attorney-General when their application comes up. The comparison with the treatment of State prisoners is constantly before them, because they live together. Little things illustrate the disparities. For example, in 1977 all State prisoners were given a special remission for the Queen's visit, as is usual. But no special remission was given to Federal prisoners. In New South Wales, significant numbers of State prisoners with good records in prison, have been released on licence as part of the policy of the Minister for Corrective Services, Mr Jackson. That policy cannot extend to Federal or ACT prisoners. The Federal system is not a good one. Winston Churchill once said that you could tell the civilisation of a country by the way in which it treated its prisoners. On that test, in respect of Federal prisoners, Australia does not come up well. This is not a matter of mollycoddling antisocial people. It is not a matter of 'bleeding hearts'. It is simply a matter of introducing more certain punishment and better institutions to supervise that punishment.

REFORMS NECESSARY

It would be my hope that the 'drug grannies' case will focus attention on the need for better institutions and procedures to deal with Federal prisoners in Australia. The way ahead is pointed in the Law Reform Commission's 1980 report. Senator Evans, in his pre-election program, has indicated that he will be examining that report closely. It involves:

* The establishment of a Federal Sentencing Council to lay down clearer guidelines including for State judges and magistrates in punishing more equally Federal offenders in all parts of the country.

* A move towards more definite sentences which prisoners will actually serve but on the basis that those sentences will be generally shorter and closer to the time that is now actually served by prisoners.
* The abolition of the 'charade' of parole or the replacement of the present defective parole system with more routine institutions and procedures.
* The Federal Attorney-General would be relieved of the day-to-day decisions on parole and licence, though he would retain a reserve power to recommend the prerogative of mercy.

Prisoners would know the rules, who dispensed the rules and that the rules did not greatly change with a change of Minister. Equal justice under the law involves the effort to reduce idiosyncratic features, particularly in imprisonment and criminal punishment. Pending the introduction of new laws and institutions for Federal offenders, the Attorney-General could take a number of reforming steps, including the use of license release. But these temporary expedients will be no substitute for basic structural reform covering all Federal prisoners in all parts of the country. There are not many of them -- only about 400 of 10,000 prisoners. They are generally younger, less violent and there are far greater numbers of women than State prisoners (24% rather than 4%). But their needs for reform have been largely overlooked and I hope the recent case brings the need for basic changes out into the open.

FEDERAL SENTENCING REFORM ACTION

Let me now say something about the Australian Law Reform Commission itself, something about the reforms already introduced, based on our sentencing report[1] and something abnout the tasks awaiting attention.

The Australian Law Reform Commission is a Federal organisation, established with the support of all Parties in the Federal Parliament. It reports to Parliament on projects assigned to it by the Federal Attorney-General. Its Commissioners have included some of the most distinguished lawyers in our country - such as Sir Zelman Cowen, the former Governor-General and Sir Gerard Brennan, a Justice of the High Court of Australia. It is a small body with a research staff of 9. There are 4 full-time Commissioners, assisted by 7 part-time Commissioners. From successive Attorneys-General, the Commission has received a program of highly controversial, sensitive and difficult tasks, including many in the field of crime and punishment. The Crimes Amendment Act 1982 illustrates, the fact that the Commission is not just an academic body. Its proposals have led onto legislative reform both at a Federal and State level in Australia. Though the proportion of crime that is Federal crime in Australia is small, it is not insignificant, it is growing, it has special features and it is the area of

responsibility of the Federal Parliament and its agencies, including the Law Reform Commission. Moreover, one of the benefits of Federation is that reform ideas proposed for one jurisidiction can flow over to encourage reform in others. This may be especially so where the reform initiative comes at a Commonwealth level, because the impact is likely to be more widespread and pervasive, precisely because of the national application of Commonwealth reforming laws.

It is therefore relevant and timely for a conference such as this to be aware of the content of the Crimes Amendment Act 1982. Putting it briefly, the reforms introduced by the 1982 Federal statutes include:

* Statutory provisions to restrict the imposition of sentences of imprisonment on Commonwealth offenders to cases of 'last resort';
* Introduction of provisions for conditional release of Commonwealth offenders after conviction, including upon condition that a person will, during the time specified, be subject to the supervision of a probation officer;
* Provision, in the case of convicted Commonwealth offenders, of non-custodial alternatives to imprisonment available in respect of State offenders but not so far available for Commonwealth offenders on their conviction;

There are other provisions in the 1982 Act. But the ones I have mentioned will be the most important and the most relevant to this workshop. The 1982 Act inserts in the Commonwealth Crimes Act a new provision, s.17A. This section clearly accepts the primary thrust of the Australian Law Reform Commission's report on sentencing of Federal offenders. In particular, it accepts the suggested obligation of any court sentencing a person to prison for a Commonwealth offence, to state reasons in writing for doing so and to cause those reasons to be entered in the records of the court. The Commonwealth measure did not adopt the precise criteria for imprisonment which were proposed in the Commission's report (namely the endangerment of life or personal security or that no other punishment would be sufficiently severe or to deal with the case of repeated offences). By the same token the adoption of the principle now incorporated by s.17A may be useful in directing the attention of judges and magistrates, in dealing with Federal offenders, to the need to restrict the imposition of sentences of imprisonment and more fully to explore alternatives, including alternatives which involve the greater use of probation:

> 17A(1). A court shall not pass a sentence of imprisonment on any person for an offence against the law of the Commonwealth, or the Australian Capital Territory or an external Territory...unless the Court after having considered all other available sentences is satisfied that no other sentence is appropriate in all the circumstances of the case.2

A further very important provision of the Crimes Amendment Act 1982 inserts in the Commonwealth Crimes Act the following new provisions:

> 20AB(1). Where under the law of a State or Territory a court is empowered in particular cases to pass a sentence or make an order known as a community service order, a work order, a sentence of periodic detention, an attendance centre order, a sentence of weekend detention or an attendance order, or to pass or make a similar sentence or order or a sentence or order that is prescribed for the purposes of this section, in respect of a person convicted or an offence against the law of the State or Territory, such a sentence or order may in corresponding cases be passed or made by that court or any Federal court in respect of a person convicted before that firstmentioned court, or before that Federal court in that State or Territory, of an offence against the law of the Commonwealth.

In short, where, if the offender had been a State offender, he could have been given a non-custodial sentence, in future, Commonwealth offenders will be able to be dealt with in a similar non-custodial way. Until now, the options available to the courts in dealing with Federal offenders have been very distinctly circumscribed. The growing realisation of the incapacity of our prisons to reform, their frequently adverse effect in instilling criminality in prisoners and the very great cost of keeping people in prison (variously estimated at between $15,000 to $25,000 a year) have all directed the attention of reformers, administrators and thinking members of the community to alternatives that are more cost effective and no less ineffective as punishments for convicted offenders.

One other development out of the Australian Law Reform Commission's report should be mentioned. The previous Federal Attorney-General, Senator Durack in 1982 held discussions with State Attorneys-General on a proposal put forward in the Australian Law Reform Commission's report for the establishment of a national Sentencing Council. The precise proposal advanced by Senator Durack was somewhat different to that envisaged by the Commission. We were limited by our Act and terms of reference to Federal offences and offenders. He envisaged a body which will seek to promote greater uniformity of punishment in State and Territory as well as Commonwealth crime. Secondly, the Law Reform Commission envisaged a Sentencing Council which would comprise a variety of actors in the criminal justice drama. It was proposed that there be judges, Federal and State, magistrates, criminal justice administrators, corrections officers, probation officers, legal practitioners and academics qualified to be non-judicial members of the Council. As reported by Senator Durack, his proposal envisaged confining the Sentencing Council to judges only. Nonetheless, the proposal was an important step in the direction of a most desirable national goal - that of bringing greater rationality and

uniformity to the punishment of those who are convicted of offences against our criminal laws: Federal and State. Unfortunately, the proposal ws dropped by the Fraser Government when it ran into opposition in a number of States. As I have said it was included in the ALP law and justice policy before the recent Federal Election.

The report upon which these recent Federal developments have been based is, by any account, a major study and one of interest and relevance to probation and parole officers. It is the first national examination of sentencing ever carried out in the Australian Commonwealth. The Commission was led in the project by Professor Duncan Chappell, a criminologist with a worldwide reputation. The Commissioners were assisted by a team of honorary consultants drawn from various disciplines. Among the consultants were Dr. A. A. Bartholomew, consultant psychiatrist with the Department of Health in Victoria, Mr. L. B. Gard, Director of the Department of Correctional Services in South Australia, Mr. J.G. Mackay, Director of Probation and Parole Services in Hobart, judges, magistrates and police. Additionally, the Commission had the assistance of public opinion polls addressed to issues such as parole reform, a survey of Federal and State prisoners and, most novel of all, a national survey of judges and magistrates addressed to the issues of sentencing reform. The report contained 129 recommendations. It was delivered as an interim report, for much remains to be done when the Australian Law Reform Commission can secure the resources to revive the project. Amongst matters to be dealt with in the future are:

* completion of the drafting of a comprehensive Federal Sentencing statute;
* conclusion of consultation, including with State colleagues, concerning the many recommendations contained in the report affecting State corrections administration;
* completion of the analysis of reforms needed in the Commonwealth's Territories, which have suffered the greatest neglect of sentencing reform, resulting often in the shortest list of available alternatives for the judicial officer proceeding to sentence a convicted offender; and
* specific study of particular offender groups, such as migrants, the mentally ill, women offenders (highly represented in Commonwealth crime), drug offenders and so on.

Much remains to be done. However, the passage of the Crimes Amendment Act 1982 and, the new Government's proposal for a national Sentencing Council and reforms of parole are an indication that even in so controversial an area as this, reform can be achieved. Criminal punishment is a matter of high controversy, upon which just about every member of the community has firm opinions. It is encouraging to see that action can be achieved. The Australian Law Reform Commission is a body established to help the Parliamentary process deal with just such difficult problems as this.

RE..ORM OF PROBATION AND PAROLE: SIX RECENT REPORTS

I have dealt so far with the general context of the Australian Law Reform Commission project on reform of sentencing for Federal offenders. Within that context, particular attention was given to the reform of probation and parole in the case of Federal offenders. The Australian Law Reform Commission enquiry into this subject was only one of several in Australasia and beyond addressed to the overhaul of punishment of offenders:

* In 1973 the first report of the Criminal Law and Penal Methods Reform Committee of South Australia, chaired by Justice Roma Mitchell contained an extensive examination of parole with proposals for reform in South Australia.
* In 1978 the report of the Royal Commission into N.S.W. Prisons chaired by Mr. Justice Nagle was released. It too contained a major review of the correctional system of N.S.W. and dealt at length with parole.
* In 1978 the Parole Review Committee chaired by Judge A.G. Muir Q.C. was established specifically to review the parole system in N.S.W. Its report was released in February 1979.
* A report on parole, prison accommodation and leave from prison in Western Australia was prepared by Mr. Kevin Parker Q.C. and released in 1979. It contains a major review of the Western Australian parole system.
* The Australian Law Reform Commission report Sentencing of Federal Offenders delivered in 1980 contained the first examination of parole in the case of Commonwealth offenders and dealt also with non-custodial sentencing options including supervision by State probation officers.
* In May 1981 a Home Office Committee report was published in England, Review of Parole in England and Wales, supporting the parole system.
* In 1982 the report of the New Zealand Penal Policy Review Committee was made public. That report contained a large number of proposals for reform. Amongst the most controversial proposals has been the suggestion for a change in the organisation of the probation service. The report was extremely critical of the present probation service in New Zealand. It claimed that the evidence showed that probation did not have any significant impact on rates of recidivism. The New Zealand report concluded 'we regard this as diluting penal resources into the community to such an extent that the cost in time and money is hardly justified in terms of any gains to the criminal justice system.'[3] The thrust of the report so far as the Probation Service of New Zealand was concerned, was to try to break down the suggested 'confusion' between the social welfare role of the probation officer and the criminal justice supervisory role. It proposed confining probation officers basically to the latter. The change would be signalled by a renaming of the service as 'Offender Supervisory Service'. Greater use of community volunteers

was envisaged with the aim of reducing costs. Criticism of these proposed changes in New Zealand has led some commentators to dub the 'Offender Supervisory Service' the 'SS'.[4] A visiting professor of social work administration has condemned the proposed changes to the New Zealand Probation Service as 'destroying the service and turning them into community-based screws'.[5]

* In 1982 also the second report of the Victorian Sentencing Alternatives Committee, Parole and Remissions. This report analysed the Australian Law Reform Commission recommendations. It concluded that parole should be maintained in Victoria, with a few administrative changes.

Many of you will be familiar with the observations in the Mitchell, Nagle and Muir reports. Perhaps what I have said will lead you to become familiar with the New Zealand controversy. I want to spend my remaining time talking to you about the Australian Law Reform Commission's proposals as they would affect parole in the case of Commonwealth offenders. These assume special importance because reform of Federal parole is, as I have said, on Senator Evans' list of promised actions in the Federal sphere.

FEDERAL PAROLE: ABOLITION OR REFORM?

Parole originated as a humane endeavour to modify the harsher aspects of punishment, to encourage good conduct in prison and to afford the prisoner a hope of early restoration to normal life, if he behaved in a socially acceptable way, first in prison and later once released during parole. Unfortunately, as parole has developed in Australia, probably no other aspect of our criminal justice and punishment system creates such feelings of unfairness (in many cases justified) as the disparaties in parole, as the system is currently administered. The failings (and, let it be said, the achievements) of our parole system are dealt with at length in the many reports I have mentioned, both in Australia, Britain and New Zealand. They are catalogued once again in the Australian Law Reform Commission's report. Among the principal defects of parole as currently organized are:

* it promotes a degree uncertainty and indeterminacy in criminal punishment;
* it assumes that later conduct in society can be predicted on the basis of conduct in the artificial world of prison;
* the procedures for parole decisions are currently conducted largely in secret and (though parole in fact affects the amount of time that a person will lose his liberty), most parole decisions are simply not reviewable in an open court forum. An administrative decision, largely unreviewable in the courts, affects, in practical terms, the liberty of the subject; and

* parole is, to some extent at least, a factor in a criminal justice 'charade'. A long initial sentence is typically imposed by the judge or magistrate. But they, the prisoners themselves, probation and parole officers and now the community generally all know that 'the long sentence' will not usually be served. Rather a much shorter sentence will be served, the exact length of time depending in part upon the judicial order and in part upon an unreviewable administrative discretion, made in secret, on the basis of material which is largely untested and frequently unknown to the subject whose freedom is in issue.

But if all these general objections to parole can be made, particular objection can be directed to parole in the case of Federal offenders. The administrative procedures are extremely complicated. The system operates differently in different parts of Australia. Individual decisions have to be made by the Federal Attorney-General and the Governor-General - both of them busy officers of state attending to these individual duties amongst pressing national responsibilities.

The Australian Law Reform Commission's report acknowledged the difficulties of abolishing parole only in the case of Federal offenders. However, it is believed that a start should be made. The Commission therefore recommended that we should return to more determinate sentencing, standard and uniform remissions for good behaviour and industry, and the abolition of the parole system in the case of Federal offenders. It was pointed out that a consequence of this decision would be the necessity of shorter sentences for Federal prisoners. The role of the guidelines drawn up by the Sentencing Council was stressed in this connection. If the proposal to abolish parole were not accepted or is delayed for a time, the report urged immediate steps radically to reform the system of parole as it affects Commonwealth prisoners in Australia. Among the reforms urged, in this eventuality, were:

* amendments to the language of the Commonwealth Prisoners Act so it would apply, in terms, uniformly throughout Australia;
* introduction of standard non-parole periods and remissions for all Federal prisoners;
* the obligation to give reasons in the case of refusal of parole to a Federal prisoner;
* access by Federal prisoners to records considered by parole authorities, save in certain exceptional and defined circumstances;
* the opportunity of prisoner participation and representation to some extent in parole hearings affecting his liberty;
* the nomination of an identified Commonwealth officer responsible for providing parole information to prisoners and their families;
* the publication of parole guidelines for release decisions; and
* the creation of a Commonwealth Parole Board, in substitution for the Governor-General advised by the Attorney-General.

None of these matters was dealt with in the Crimes Amendment Act 1982. Action on reform of Federal parole remains for the future. Plainly it will be important that any moves towards more determinate sentencing and away from the secret, unreviewable discretionary elements, as presently practised in Australia, should not substitute one form of injustice for another. An integral part of the Australian Law Reform Commission's scheme for the abolition of parole was the introduction of sentencing guidelines established by the Sentencing Council. It was hoped that these would promote a general, orderly and consistent reduction of the levels of imprisonment and greater uniformity of punishment in Australia. An illustration of the differential use of probation, parole and imprisonment in the various jurisdictions of Australia can be seen in the excellent diagram prepared by Mr. David Biles of the Australian Institute of Criminology which was reproduced in page 113 of the Australian Law Reform Commission's report.[6]

Australian levels of imprisonment are higher than those in most countries of the Western community. It is important that any abolition or modification of parole as it presently operates in Australia, should be accompanied by institutional arrangements to ensure that the determinate sentence imposed by the court is influenced by sentencing guidelines which take into account the general policy to reduce the use and terms of imprisonment as a punishment. This policy, at least, has now been given clear expression in the Commonwealth Parliament by the passage of the Crimes Amendment Act 1982, based on the Australian Law Reform Commission's report.

KEEPING OUR PERSPECTIVES

We must not lose sight of our perspectives here. Clearly there are some dangerous and anti-social offenders whose offences can only be dealt with by imprisonment. Clearly too, we must be careful that reductions in the use of imprisonment do not outstrip community opinion too far. We must rely on sound decisions; for mistakes can be very costly to innocent members of the community, to the good name of the probation and parole service and to the whole cause of criminal justice and penal law reform. An editorial in the Sydney Daily Telegraph reminds us of the good work that can be undone when a particular offender on parole or probation goes bad again:

> All too often, it appears, criminals are released from gaol on parole when they have not been rehabilitated...Finding an appropriate sentence for a crime is a heavy burden on any judge or magistrate. To have to attempt also to predict the circumstances that may exist at some future date and decide that parole may be appropriate then is an almost impossible burden. It would not be such a burden if judges knew that the parole date they set would be treated as it was intended – as a minimum time in gaol before release is considered - and not, as

> is all too often the case, the maximum period to be served before release unless the prisoner has been particularly difficult while in gaol...As the statistics show too many criminals return to crime after serving sentences much shorter than actually handed down. Serious consideration must be given to more judicious use of the parole system and the use of low security prisons - and more effort made to ensure that prisoners are capable of living under the laws set by our society before they are set free.[7]

If only it were possible to predict dangerousness. If only it were within the ability of man to determine those who could safely be released and those who should be held to the full limit of the sentence. If only our prisons did, as the editorialist put it 'rehabilitate' prisoners. If only probation and parole decisions could be made more scientifically. It is no use indulging wistfully in these pipedreams. The most we can hope to do is to:

* introduce greater uniformity and consistency in punishment of convicted offenders;
* reduce the resort to imprisonment which has so many destructive effects on the prisoner and his family and costs the community so much;
* increase, imaginatively, the variety of punishments that are available to judicial officers, including those which require the participation of probation and parole officers; and
* remove the most dehumanising elements of our institutions - many of which were built in the Victorian age and still incorporate features that are silent, persisting monuments to the forgotten theories of forgotten penologists.

There are, of course, many difficulties in the way of reforming the punishment of Federal offenders. They are often bailed by State police, tried in State courts, sentenced by State judicial officers, reviewed by State probation officers and when imprisoned, consigned to State institutions. They are a small proportion of the criminal population. But they are the Commonwealth's responsibility. And it is no more right that the Commonwealth should resign its duties in respect of those offenders than it would be to suggest that the States of Australia should resign their duties to reform and modernise their own criminal justice systems. A start has been made in the long-neglected area of Federal crime and punishment. And the start has gone beyond a report to action by the Federal Government and Parliament. I recognise that reforms that affect punishment of Commonwealth offenders must move with sensitivity to the implications such reforms may have for State offenders, undergoing punishments side-by-side with their Federal counterparts. Sensitivity is one thing. Neglect is another and neglect is unacceptable.

Moves towards the reform of the punishment of Federal offenders will sometimes act as a catalyst and stimulus for reforms in the State sphere. In the field of criminal punishment, there is no final word. The problems abound and there are no simple solutions. But the need to introduce a more modern, cost effective, open and somewhat more scientific system is, I think, beyond debate. The work of the Australian Law Reform Commission is directed to these goals and I hope that it attracts the interest and support of thinking officers in the probation and parole services.

FOOTNOTES

1. Australian Law Reform Commission, Sentencing of Federal Offenders (ALRC 15), Interim, 1980.

2. Crimes Amendment Act 1982 (Cwlth), s.5(1). See also subsections 17A(4) and (5) limiting the application of the section.

3. As quoted in article 'Penal Policy Review Undermines Probation Service', in New Zealand PSA Journal, May 1982, 3.

4. P. Ray, 'Penal Reform: Will the Punishment Fit the Crime?' in N.Z. Listener, 17 April 1982, 43.

5. Professor Howard Jones cited ibid, 44.

6. D. Biles, figure reproduced, ALRC 15, 113.

7. Daily Telegraph (Sydney) 14 July 1982, 10.